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August 16, 2024

Application granted.

The Clerk of Court is directed to terminate the motion at Dkt. 85.

VIA ECF

Honorable Arun Subramanian
United States District Judge
United States District Court for the
Southern District of New York
500 Pearl Street, Courtroom 15A
New York, NY 10007

SO ORDERED.

A handwritten signature in blue ink, appearing to read "Arun Subramanian".

Arun Subramanian, U.S.D.J.

Date: August 21, 2024

Re: *Bensky et al. v. Indyke et al.*, Civ. No. 1:24-cv-01204 (AS)
Jane Doe 3 v. Indyke et al., Civ. No. 1:24-cv-02192 (AS)

Dear Judge Subramanian:

Pursuant to Paragraphs 11(C)(ii)-(iii) of Your Honor's Individual Practices in Civil Cases, Defendants Darren K. Indyke and Richard D. Kahn (the "Co-Executors") hereby seek leave to:

- (1) file on the public docket redacted versions of (a) Defendants' Memorandum of Law in Support of Their Motion for Issuance of a Letter of Request for International Judicial Assistance to Obtain Evidence (the "Memorandum of Law"), and (b) Exhibit 1 to the Declaration of Daniel H. Weiner submitted therewith (the "Weiner Declaration"); and
- (2) seal Exhibits 2-5 to the Weiner Declaration.

Through the Memorandum of Law and Weiner Declaration, the Co-Executors seek the Court's assistance in issuing a letter of request pursuant to the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters (the "Letter of Request") to permit the Co-Executors to obtain relevant documents and testimony from non-parties located abroad. Exhibit 1 to the Weiner Declaration is the proposed Letter of Request; Exhibit 2 is Plaintiff Jane Doe 3's sworn interrogatory responses dated May 28, 2024; and

Exhibits 3-5 are emails supporting the relevance of the documents and testimony that the Co-Executors seek in the Letter of Request.

On February 23, 2024, the Court issued an Order permitting Ms. Doe to proceed under a pseudonym “until such time as the Court orders her name to be disclosed.” (Order, ECF No. 12.) While the Co-Executors have filed a motion for disclosure of Ms. Doe’s identity (ECF Nos. 81-82), to comply with the Court’s existing Order, the Co-Executors reached out to Ms. Doe’s counsel and requested that they provide their view on appropriate redactions to the proposed Letter of Request and exhibits to the Weiner Declaration.

Ms. Doe’s counsel indicated the redactions they believe are appropriate to the Letter of Request, and the Co-Executors accepted those redactions. The Co-Executors also shared with Ms. Doe’s counsel a copy of the Memorandum of Law and proposed redactions to that document consistent with Ms. Doe’s redactions to the Letter of Request. The proposed public versions of the Letter of Request and Memorandum of Law redact (i) the names and addresses of Ms. Doe, her current employer, husband, parents and close friend;¹ and (ii) other details related to Ms. Doe’s identity, as requested by Ms. Doe.

With respect to Exhibits 2-5 to the Weiner Declaration, Ms. Doe’s counsel advised that the Co-Executors’ proposed redactions to those documents were insufficient. Ms. Doe’s counsel did not, however, provide the redactions they believe are appropriate. Accordingly, out of an abundance of caution, the Co-Executors filed those documents under seal.

In accordance with Paragraph 11(C)(i) of Your Honor’s Individual Practices in Civil Cases, the Co-Executors have advised Ms. Doe’s counsel that they must file, within three business days, a letter explaining the need to seal or redact the documents referenced herein.

Respectfully submitted,

/s/ Daniel H. Weiner

cc: Counsel of Record

1. The Co-Executors recognize that they may redact the home addresses of Ms. Doe, her family members, and friend pursuant to Rule 5.2 of the Federal Rules of Civil Procedure and Paragraph 11(A) of Your Honor’s Individual Practices in Civil Cases.